S.B.CIVIL WRIT PETITION NO.5522/2004

Ram Chandra Khoiwal

versus

Raj.State Agriculture Marketing Board, Jaipur & Ors.

Date of Order :: 28th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.R.Singhvi, for the petitioner.
Mr. S.G.Ojha, for the respondents.

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The petitioner, an Assistant Engineer with Rajasthan State Agriculture Marketing Board, Jaipur, was subjected to an inquiry under Rule 16 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958 (hereinafter referred to as "the Rules of 1958") under a memorandum dated 7.8.1993 issued by the Administrator, Rajasthan State Agriculture Marketing Board, Jaipur and as a consequent thereto a penalty of stoppage of three annual grade increments with cumulative effect was imposed upon the petitioner by the disciplinary authority by an order dated 6.3.1999. Being aggrieved by the same an appeal preferred by the petitioner also came to be rejected by the order dated 23.2.2000 passed by the Deputy Secretary to the Government of Rajasthan, Department of Agriculture (Group-II). The

review petition preferred by the petitioner stood rejected under an order dated 13.10.2004 being not maintainable, hence this petition for writ is preferred.

The challenge is given to the order passed by the disciplinary authority and the appellate authority being an out come of the inquiry conducted without affording a reasonable opportunity for defence to the petitioner. It is asserted that as a matter of fact no inquiry was conducted by the respondents and, if at all any was conducted, that was behind the back of the petitioner.

This Court by order dated 13.11.2006 directed the respondents to make available entire record of the disciplinary proceedings for perusal of the Court. Accordingly the same is shown to the Court today by counsel for the respondents. From perusal of record of the inquiry proceedings it appears that the papers of inquiry pertaining to the petitioner are maintained by the respondents in two independent files numbered as DE-16 and DE-16(20). The disciplinary authority by an order dated 27.10.1993 appointed the Superintending Engineering, Headquarters, Rajasthan State Agriculture Marketing Board, as inquiry officer to inquire into the allegations levelled against the petitioner under the memorandum dated 6.3.1999. The inquiring authority failed to conduct any disciplinary proceedings for

quite a petty long time, therefore, the Additional Chief Engineer of the respondent Board by various communications instructed the inquiry officer to expedite the inquiry proceedings. Ultimately by an order dated 4.7.1995 the disciplinary authority appointed Shri R.K.Sardana, Superintending Engineer (P & M), Jaipur as inquiry officer to inquire into the charges framed against the petitioner. Shri Sardana for quite a long time failed to conduct any inquiry as the relevant file containing charge sheet against the petitioner was not made available to him. After making several requests by the inquiry officer a copy of the charge sheet was given to him and then he proceeded with the inquiry by recording statements of Shri Bheem Singh Tak, Executive Engineer and Shri Ratanlal Tater, Junior Engineer on 8.4.1996. From the record made available for perusal of the Court by the respondents it does not reveal that any information was given to the petitioner for holding of inquiry and with regard to recording statements of Shri Bheem Singh Tak and Shri Ratanlal Tater. The inquiry officer under a communication dated 22.8.1996 submitted the report of inquiry to the disciplinary authority holding the petitioner guilty. A recommendation was also made to take appropriate disciplinary action against the Executive Engineer Shri Mehta (complete name not given in the inquiry report) and Shri Ratanlal Tater. A copy of the inquiry report was remitted to the petitioner on 20.1.1999 but being not served upon him, was again

sent on 6.2.1999. The petitioner did not choose to file any explanation on receiving the copy of the inquiry report as it was a photocopy of its original and not a true copy. The Administrator, Rajasthan State Agriculture Marketing Board, Jaipur then passed the order impugned dated 6.3.1999 imposing penalty of stoppage of three annual grade increments with cumulative effect.

From perusal of entire record it is apparent that all the officers of the respondent Marketing Board at the relevant time for one or other reasons were trying to prolong the disciplinary proceedings against the petitioner to the extent that the inquiry officer appointed at the first instance did not choose to hold the inquiry for a period of about two years and then ultimately Mr. R.K.Sardana was appointed as inquiry officer to conduct inquiry in the matter. Shri R.K.Sardana too recorded statements of Shri Bheem Singh Tak and Ratanlal Tater in absence of the petitioner. As a matter of fact the inquiry was conducted in quite casual manner and even without maintaining order sheets. What I gathered from the original record, is that the officers of the Board despite quite serious allegations against the petitioner were much interested in discharging empty formality of holding inquiry. It is also quite surprising that the petitioner on receiving photocopy of the inquiry report instead of making any comments

on that refused to do so on a hyper-technical ground that a photocopy instead of a true copy of the inquiry report was supplied to him. The petitioner nowhere choose to convey the disciplinary authority about holding of the inquiry in his absence. The disciplinary authority despite finding the petitioner guilty for serious allegation of extending an illegal benefit to the contractor by totally a non speaking order decided to impose a penalty of stoppage of three annual grade increments with cumulative effect. The original record of the entire disciplinary proceedings as a matter of fact speaks in volumes about intentional delay in holding the disciplinary proceedings and also to patch up the matter without getting effective probe.

Be that as it may, the resultant position what emerges is that the inquiry against the petitioner was conducted by the respondents in violation of principles of reasonable opportunity as the statements of certain persons were recorded in his absence and no information was given about holding of inquiry to the petitioner.

Accordingly, this petition for writ is allowed. The order passed by the disciplinary authority dated 6.3.1999 is quashed. Accordingly the orders passed by the appellate authority also stands quashed. However, it is open for the respondents to

proceed against the petitioner by holding the inquiry afresh in accordance with law.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.